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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/034,448

12/28/2001

Tracee E.J. Eidenschink

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EXAMINER

GILBERT, ANDREW M

ART UNIT

PAPER NUMBER

3767

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/034,448

Applicant(s)

EIDENSCHINK, TRACEE E.J.

Examiner

Andrew M. Gilbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40, 52-55, 57, 58, 64-67, 69, 70 and 76-79 is/are pending in the application.
- 4a) Of the above claim(s) 2-16, 18, 23-38, 40, 53-55, 58, 65-67, 70, 76 and 77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 17, 19-20, 22, 39, 52, 57, 64 and 69 is/are rejected.
- 7) ☒ Claim(s) 21, 78 and 79 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgments

1. This office action is in response to the reply received on 12/12/2006.
2. In the reply claims 1, 20, 52, 64, and 69 have been amended.
3. Of the pending claims, claims 2-16, 18, 23-38, 40, 53-55, 58, 65-67, 70 and 76-77 have been previously withdrawn.
4. The Applicant added new claims 78-79.
5. Thus, claims 1, 17, 19-22, 39, 52, 57, 64, 69, and 78-79 are pending in this application.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 17, 19, 52, 57, 64 and 69 are rejected under 35 U.S.C. 102(b) as being anticipated by Krause et al (5322505). Krause et al discloses a hypotube (12) with a tubular shaft having an inflation lumen (Fig 1-3; wherein the Examiner notes that the lumen is fully capable of passing a fluid and/or air there through and thus is fully capable of acting as an inflation lumen) and a main section integrally connected to a distal section (Fig 1-3), the distal section having a first section (Fig 1-3) connected to the main section (Fig 1-3) and a second section (Fig 1-3), the first section further having at least 1 slit (60, 62) extending at least partially and circumferentially around the tubular

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wall in close proximity to the second section that comprises a non-tubular stinger (30), the stinger formed by a distal extension of the tubular wall (28, 30; Fig 2-3); and wherein the inflation lumen has a distal opening that opens in a distal direction (22, 24; Figs 2-3; and discussion below in "Response to Arguments"); wherein the stinger is tapered (30; Fig 3) and formed by a portion of the tubular wall (28; 30; Fig 3) by an elongated axial cut-out along the tubular wall (30, Fig 3).

8. Claims 1, 17, 19, 52, 57, 64 and 69 are rejected under 35 U.S.C. 102(b) as being anticipated by Gharibadeh et al (5458613). Gharibadeh et al discloses a hypotube (42) with a tubular shaft having an inflation lumen (42, Fig 6-7; wherein the Examiner notes that the lumen is fully capable of passing a fluid and/or air there through and thus is fully capable of acting as an inflation lumen) and a main section (42, Fig 6-7; wherein the main section consists of the portion of (42) proximal to the first slot) integrally connected to a distal section (42, Fig 6-7; wherein the distal section consists of the portion starting at the first slot and proceeding distally), the distal section having a first section (42, Fig 6-7) connected to the main section (42, Fig 6-7, discussed above) and a second section (41, Fig 6-7), the first section further having at least 1 slit (2 slots shown in Fig 7) extending at least partially and circumferentially around the tubular wall (wherein the Examiner notes that the 2 slots shown in Fig 7 extend at least partially and circumferentially around the tubular wall in a circumferential direction, even though their major axis is in the longitudinal direction; the Examiner suggests further structurally clarifying the at least one slit to distinguish from Gharibadeh et al) in close proximity to the second section that comprises a non-tubular stinger (41), the stinger formed by a

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distal extension of the tubular wall (41, Figs 6-7); and wherein the inflation lumen has a distal opening that opens in a distal direction (25, 41, Fig 6-7); wherein the stinger is tapered (41, Fig 7) and formed by a portion of the tubular wall (41, Fig 7) by an elongated axial cut-out along the tubular wall (41, 42, Fig 6-7).

9. Claims 20, 22, 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Goodin et al (6066114). Goodin et al discloses a catheter apparatus (Fig 1) comprising: a distal tubular member (30) defining a first lumen (36, Fig 1), and a proximal hypotube (20, Fig 3) comprising a tubular shaft comprising a tubular wall defining a second lumen and a main section integrally connected to a distal section (Fig 1, 3), the distal section comprising a first section integrally connected to a second section, the first section being integrally connected to the main section and disposed between the main section and the second section, the first section comprising at least one slit (28' or 28'', Fig 3-4) extending through the tubular wall, the at least one slit extending at least partially and circumferentially around the tubular wall (28' or 28'', Fig 3-4; wherein the Examiner notes that the slit opens concavely in the distal direction), the second section comprising a non-tubular stinger (50), a balloon (60; Fig 1), the at least one slit being disposed in close proximity to the stinger (Fig 1, 3-7), the then distal tubular member connected to the proximal hypotube such that the first and second lumens fluidly connected to form an inflation lumen (26, 28, 36, 60, Fig 1, 3-7), and the balloon fluidly coupled to the inflation lumen (26, 28, 36, 60, Fig 1, 3-7), the stinger (50) extending distally from the distal end of the hypotube into the distal tubular shaft (50, Fig 1);

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wherein the catheter apparatus is a stent delivery system (Background), and wherein the stinger is tapered (50, Fig 1-2).

Allowable Subject Matter

10. Claims 21, 78-79 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments with respect to claims 1, 17, 19-22, 39, 52, 57, 64 and 69 have been considered but are moot in view of the new ground(s) of rejection.

12. In reference to the Applicant's argument that Krause (5322505) does not teach independent claims 1, 52, and 64 because Krause lacks having a distal opening that opens in the distal direction, the Examiner respectfully disagrees. The openings (22, 24) are fully capable of acting as a distal opening that opens in the distal direction because the openings (22, 24) are cut concavely in the distal direction (see Fig 2-3) and thus the Examiner finds that the distal opening opens in the distal direction in a concave manner. Thus, the rejection is maintained.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kumoyama et al (2006/0142696) – see Fig 6; Engelson (5095915); Goode et al (5507751).

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Gilbert whose telephone number is (571) 272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrew Gilbert

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

